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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,636	12/28/2001	Joseph W. Weber	13208.121	4100
24283	7590	06/07/2006	EXAMINER	
PATTON BOGGS 1660 LINCOLN ST SUITE 2050 DENVER, CO 80264			SANDOVAL, KRISTIN D	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/035,636

Applicant(s)

WEBER ET AL.

Examiner

Kristin Derwich

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-11 are pending.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claims 1 and 5 recite the limitation, "generating at least one content variable that uniquely identifies a corresponding block of said file as a public portion of said encryption key." It is not clear whether the content variable is identifying a block of the file as a public portion of the encryption key or whether the content variable itself is the public portion of the encryption key. Based on the limitation following, "combining the host identification and the at least one content variable to produce the encryption key," it is assumed that the content variable itself is the public portion and not a corresponding block of the file that the content variable identifies. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Hereafter patent literature that is referenced as prior art will be cited by column and line number in the form of (column number:line number range). For example, the citation (6:23-27) refers to lines 23-27 of the 6<sup>th</sup> column in the reference.

3. Claims 1, 2, 5, 8, 10 and 11 rejected under 35 U.S.C. 102(b) as being anticipated by Fielder et al. (Fielder), U.S. Patent No. 6,049,612.

As per claims 1, 5, 8 and 10:

Fielder discloses a method for generating an encryption key comprising:

retrieving the host identification from the host device for use as a private portion of an encryption key (4:29-31 wherein the E-Key Seed acts as the host identification (6:13-15) and is private since it is secret);

generating at least one content variable that uniquely identifies a corresponding block of said file as a public portion of said encryption key (4:29-31 wherein the constant value is the content variable and is combined with the E-Key Seed to form the encryption key);

combining the host identification and the at least one content variable to produce the encryption key that was used to encrypt the file (5:18-30);

encrypting a block of plaintext data using the encryption key to produce a block of ciphertext (5:37-46);

appending only the at least one content variable to the block of ciphertext (5:37-46);

transmitting the block of ciphertext and the appended at least one content variable over the unsecured interface to the storage device (3:11-16);

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storing the block of ciphertext and the appended one or more content variables within the storage device (3:11-16); and

decrypting the block of ciphertext with the encryption key to produce the block of plaintext (4:61-63).

As per claims 2 and 11:

using a predetermined method, wherein combining the host identification and the at least one content variable repeatedly produces the same encryption key (5:18-30).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 6 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Fielder (U.S. 6,049,612) as applied to claims 1 and 5 above and further in view of Kudo et al. (Kudo), U.S. Patent No. 6,381,695.

As per claims 3 and 6:

Fielder fails to teach obtaining a time variable from a secure clock within the host device. However, Kudo discloses a method wherein a time variable is obtained because it is required in order to decrypt the message (2:64-3:8).

As per claim 4:

Fielder substantially teaches a method comprising:

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retrieving the host identification from the host device for use as a private portion of an encryption key (4:29-31 wherein the E-Key Seed acts as the host identification (6:13-15) and is private since it is secret);

generating a content identification, wherein the content identification corresponds to the block of plaintext as a public portion of said encryption key (4:29-31 wherein the constant value is the content variable);

combining the host identification and the content identification to produce the encryption key (5:18-30).

Fielder fails to teach a method that obtains a time variable. However, Kudo discloses a method wherein a time variable is obtained because it is required in order to decrypt the message (2:64-3:8).

As per claims 7 and 9:

Fielder substantially teaches a method comprising:

retrieving the stored block of ciphertext and the appended at least one content variable from the storage device (6:23-34);

retrieving the host identification from the host device (6:13-15);

Fielder fails to teach a method comprising utilizing decryption criteria such as a time variable, in order to decrypt. However, Kudo discloses a method wherein a time disclosure is set and when a message is to be decrypted the time is obtained and checked against the time disclosure since the message can only be decrypted at the disclosure time and if it is then the encryption key is used to decrypt (2:64-3:8; 5:60-6:2).

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It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to utilize the time dependent decryption of Kudo with the encryption/decryption method of Fielder because then the decryption condition that is used, such as an ID or password, would not need to be distributed to the person actually performing the decryption which would increase the security of the system as a whole (Kudo, 7:9-25).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristin Derwich whose telephone number is 571-272-7958. The examiner can normally be reached on Monday - Friday, 8:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



KMD

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Examiner  
Art Unit 2132



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